

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

MACA.No. 1447 of 2007

OPMV.1038/2000 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
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APPELLANT/PETITIONER

NIDHISH.M, S/O RATNAKARAN,
AGED 27 YEARS, PERUMBALATH HOUSE,
THALAKKULATHOOR POST, KOZHIKODE.

BY ADV. SMT.LATHA PRABHAKARAN
SRI.K.M.JAMALUDHEEN

RESPONDENTS: RESPONDENTS

1. M.K.ALIKOYA, S/O ABDUL KHADAR,
AGED 57 YEARS, MUTHIRAKKALAYIL HOUSE,
THALAKKULATHOOR POST, KOZHIKODE.
2. THE UNITED INDIA INSURANCE COMPANY LTD.,
BRANCH OFFICE NO.2, CHEROOTY ROAD,
KOZHIKODE.

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION
ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S. RADHAKRISHNAN & A.K.BASHEER, JJ.

M.A.C.A. No 1447 of 2007

Dated: 18th September 2007

JUDGMENT

Radhakrishnan,J.

Claimant is the appellant. He was pillion rider on the motor cycle going from Pavangad to Parappalara on 20.1.2000. Autorickshaw bearing registration No KRZ 4843 came in a rash and negligent manner and dashed the motor cycle as a result of which appellant sustained injuries. He was taken to Medical College Hospital, Kozhikode. He claimed an amount of Rs 3 lakhs towards compensation. Second respondent filed written statement admitting the insurance policy but stated that the accident occurred due to the negligence of the rider of the motor cycle. No oral evidence was adduced in this case. Exts. A1 to A3 and C1 were marked. Owner, rider and insurer of the motor cycle were not impleaded. Ext. A2 wound certificate produced would indicate that the appellant had sustained lacerated wound on the right patella and x-ray revealed fracture of patella. Ext. A3 documents would show that he had sustained a fracture on patella and as on the date of discharge the fracture on patella was united. Counsel

appearing for the appellant submitted that adequate compensation was not awarded. Facts would indicate that rider of the motor cycle was also negligent and therefore the Tribunal found that rider of the motor cycle and the driver of the autorickshaw were jointly and severally liable. Accordingly award was passed for an amount of Rs 10,970/- with interest at 6% per annum from 26.5.2000 till realisation. In the facts and circumstances of the case, we are not prepared to say that the amount awarded is not just and proper. Appeal therefore lacks merits and the same is dismissed.

Sd/-
K.S. RADHAKRISHNAN
Judge

Sd/-
A.K. BASHEER
Judge

18/09/2007
en

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